

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Terrorist Attacks on September 11, 2001

03 MDL 1570 (GBD) (FM)
ECF Case

This document relates to:

Ashton, et al. v. al Qaeda Islamic Army, et al., 02-CV-6977 (GBD)(FM)

James P. Kreindler, Esq., hereby states under penalty of perjury that:

1. I am an attorney representing the *Ashton* plaintiffs in the above-captioned litigation. I submit this declaration in support of the Motion to Vacate the final judgment for solatium damages of \$8.5 million awarded by this Court to Theresa Regan on August 15, 2019 and to grant in its place a corrected final judgment for damages of \$12.5 million plus prejudgment interest in the amount of 4.96% per annum on Ms. Regan's behalf. We make this request to correct our error in listing Theresa Regan as a parent of Donald Regan, who was killed in the terrorist attacks on September 11, 2001, which relied on data from our files that had been misentered. This error was identified after additional efforts to confirm Theresa Regan's biographical information, while in the process of reviewing all supporting documentation during the preparation of applications for the United States Victims State Sponsored Terrorism Fund. We have also now confirmed with Theresa Regan that she is a United States national, which we had not been able to confirm at the time that we moved for final solatium damages on her behalf. The corrected proposed order reflects the true relationship between claimant Theresa Regan and Donald Regan.

2. The source of my information and the basis for my belief in the statements contained herein is my personal involvement in this matter, my firm's representation of the *Ashton* plaintiffs in connection with the September 11th litigation against the airline defendants, other court records relating to the multi-district litigation to which the *Ashton* plaintiffs are parties and

conversations had with family members to the *Ashton* plaintiffs. Any matters about which I lack personal knowledge are asserted herein upon information and belief.

3. On August 26, 2015, this Court entered a default judgment on liability against Iran to all *Ashton* plaintiffs for claims arising out of the deaths of the plaintiffs' decedents.

4. On July 31, 2019, certain *Ashton* plaintiffs filed a motion for final default judgment for solatium damages on behalf of certain family members eligible to recover such damages under 28 U.S.C. §1605A (the "*Ashton XII*" claimants). ECF No. 4716.

5. The Court previously found that, due to the unique circumstances of the September 11th attacks and awards issued for solatium damages in other terrorism cases, the appropriate solatium damages awards for surviving spouses in this litigation were as follows: \$12.5 million for surviving spouses and \$8.5 million for surviving parents.

6. The *Ashton XII* claimants were listed in Exhibits A (for claimants who were confirmed as United States nationals) and B (for claimants whose nationality was either unknown or had been confirmed as non-United States) of Plaintiffs' July 31, 2019 Motion, along with each claimant's relationship to the decedent and the amount of solatium damages that the claimants moved the Court to award to them based on the Court's prior orders. ECF Nos. 4717-1 and 4717-2. At the time, Theresa Regan was listed in Exhibit B as the parent of an individual killed on September 11, 2001 in the terrorist attacks, and a damages judgment for her of \$8.5 million was therefore sought. ECF No. 4717-2 at line 30.

7. On August 15, 2019, this Court granted the *Ashton XII* claimants' motion and entered final default judgment for solatium damages to all those relatives listed in Exhibits A and B to the motion, in the amounts specified in Exhibits A and B. ECF No. 4880.

8. Theresa Regan, one of the *Ashton XII* claimants, was incorrectly listed as the parent of decedent Donald Regan in Exhibit B and awarded \$8.5 million in solatium damages by the

Court. Theresa Regan was not, however, the decedent's parent but, rather, his spouse and thus should have been awarded final judgment in the amount of \$12.5 million.

9. This error was the result of misentered file information within my firm and difficulties making contact with our client prior to the date of filing the motion for solatium damages. We discovered our error while preparing Theresa Regan's application for the United States Victims of State Sponsored Terrorism Fund. During that process, we were able to make contact with our client, learn the true relationship between Theresa Regan and the 9/11 victim and also were able to confirm that Theresa Regan is a United States national.

10. Accordingly, I respectfully request that the Court vacate the judgment granted on August 15, 2019 to Theresa Regan (ECF No. 4880 at 32, line 30), only, leaving all other judgments appearing on ECF No. 4880 undisturbed, and in its place grant the proposed order to award Theresa Regan a final judgment of solatium damages as the spouse of September 11th decedent Donald Regan in the amount of \$12.5 million plus prejudgment interest to be calculated at a rate of 4.96% per annum. A proposed order is attached hereto as Exhibit A.

Dated: January 15, 2020
New York, NY

/s/ James P. Kreindler
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